UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

--- x

Alexander Joyner,

Plaintiff,

-against-

UC155,

Defendant.

--- x

ANSWER TO COMPLAINT ON BEHALF OF DEFENDANT UC155

16 CV 3327 (ARR)(SMG)

Jury Trial Demanded

Defendant Undercover Police Officer Number 155 (hereinafter "UC155"), by his attorney, Zachary W. Carter, Corporation Counsel of the City of New York, for his answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph "1" of the complaint, except admits that plaintiff purports to bring this action and seek relief as stated therein.

2. Denies the allegations set forth in paragraph "2" of the complaint, except admits that plaintiff purports to bring this action as stated therein.

3. Denies the allegations set forth in paragraph "3" of the complaint, except admits that plaintiff purports to invoke the Court's jurisdiction as stated therein.

4. Denies the allegations set forth in paragraph "4" of the complaint, except admits that plaintiff purports to base venue as stated therein.

5. Denies the allegations set forth in paragraph "5" of the complaint.

6. Denies the allegations set forth in paragraph "6" of the complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "7" of the complaint.

8. Denies the allegations set forth in paragraph "8" of the complaint, except admits that UC155 is employed by the New York City Police Department as a Detective.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "9" of the complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "10" of the complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "11" of the complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "12" of the complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "13" of the complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "14" of the complaint.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "15" of the complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "16" of the complaint, except admits that on or about May 21, 2010, UC155 and other undercover police officers were present at 113-10 Sutphin Boulevard in Jamaica, Queens.

17. Admits the allegations set forth in paragraph "17" of the complaint.

18. Admits the allegations set forth in paragraph "18" of the complaint.

19. Denies the allegations set forth in paragraph "19" of the complaint.

20. Denies the allegations set forth in paragraph "20" of the complaint, except admits that on or about May 21, 2010, police officers entered 113-10 Sutphin Boulevard in Jamaica, Queens.

21. Denies the allegations set forth in paragraph "21" of the complaint, except admits that on or about May 21, 2010, individuals present at 113-10 Sutphin Boulevard in Jamaica, Queens attempted to discard and hide contraband, including but not limited to, drugs, drug paraphernalia, and at least one handgun, when they learned that police officers were present.

22. Denies the allegations set forth in paragraph "22" of the complaint.

23. Admits the allegations set forth in paragraph "23" of the complaint.

24. Denies the allegations set forth in paragraph "24" of the complaint.

25. Denies the allegations set forth in paragraph "25" of the complaint.

26. Denies the allegations set forth in paragraph "26" of the complaint.

27. Denies the allegations set forth in paragraph "27" of the complaint.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "28" of the complaint.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "29" of the complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "30" of the complaint.

31. Denies the allegations set forth in paragraph "31" of the complaint.

32. Denies the allegations set forth in paragraph "32" of the complaint, except admits that UC155 lost or misplaced his memo book entries concerning this incident.

33. Denies the allegations set forth in paragraph "33" of the complaint, except admits that plaintiff was charged with two counts of Criminal Possession of a Weapon in the Second Degree.

34. Admits the allegations set forth in paragraph "34" of the complaint.

35. Denies the allegations set forth in paragraph "35" of the complaint.

36. Denies the allegations set forth in paragraph "36" of the complaint.

37. Denies the allegations set forth in paragraph "37" of the complaint, except admits that on November 4, 2010, plaintiff was indicted by a grand jury on a top charge of criminal possession of a firearm.

38. Denies the allegations set forth in paragraph "38" of the complaint.

39. Denies the allegations set forth in paragraph "39" of the complaint.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "40" of the complaint.

41. Admits the allegations set forth in paragraph "41" of the complaint.

42. Denies the allegations set forth in paragraph "42" of the complaint, except admits that on March 25, 2015, the Appellate Division, Second Department, reversed plaintiff's conviction and dismissed the underlying indictment.

43. Paragraph "43" of the complaint sets forth conclusions of law rather than averments of fact, and accordingly, no response thereto is required.

44. Paragraph "44" of the complaint sets forth conclusions of law rather than averments of fact, and accordingly, no response thereto is required.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "45" of the complaint.

46. Denies the allegations set forth in paragraph "46" of the complaint and all subparts therein.

47. In response to the allegations set forth in paragraph "47" of the complaint, Defendant repeats and realleges the responses set forth in the preceding paragraphs, inclusive of this answer, as if fully set forth herein.

48. Paragraph "48" of the complaint sets forth conclusions of law rather than averments of fact, and accordingly, no response thereto is required. However, to the extent a response is required, Defendant denies the allegations set forth in paragraph "48" of the complaint.

49. Denies the allegations set forth in paragraph "49" of the complaint.

50. Denies the allegations set forth in paragraph "50" of the complaint.

51. Denies the allegations set forth in paragraph "51" of the complaint.

52. In response to the allegations set forth in paragraph "52" of the complaint, Defendant repeats and realleges the responses set forth in the preceding paragraphs, inclusive of this answer, as if fully set forth herein.

53. Denies the allegations set forth in paragraph "53" of the complaint.

54. Denies the allegations set forth in paragraph "54" of the complaint.

55. Denies the allegations set forth in paragraph "55" of the complaint.

56. Denies the allegations set forth in paragraph "56" of the complaint.

57. Denies the allegations set forth in paragraph "57" of the complaint.

58. Denies the allegations set forth in paragraph "58" of the complaint.

59. In response to the allegations set forth in paragraph "59" of the complaint, Defendant repeats and realleges the responses set forth in the preceding paragraphs, inclusive of this answer, as if fully set forth herein.

60. Paragraph "60" of the complaint sets forth conclusions of law rather than averments of fact, and accordingly, no response thereto is required. However, to the extent a response is required, Defendant denies the allegations set forth in paragraph "60" of the complaint.

61. Denies the allegations set forth in paragraph "61" of the complaint.

62. Denies the allegations set forth in paragraph "62" of the complaint.

63. Denies the allegations set forth in paragraph "63" of the complaint.

64. Denies the allegations set forth in paragraph "64" of the complaint.

65. Denies the allegations set forth in paragraph "65" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

66. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

67. Defendant has not violated any rights, privileges, or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has Defendant violated any Act of Congress providing for the protection of civil rights.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

68. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and/or the culpable or negligent conduct of others and was not the proximate result of any act of the Defendant.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

69. There was probable cause for plaintiff's arrest, detention, and prosecution.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

70. At all times relevant to the acts alleged in the complaint, Defendant UC155 acted reasonably in the proper and lawful exercise of his discretion.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

71. This action may be barred, in whole or in part, by the applicable statute of limitations.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

72. Defendant UC155 has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and, therefore, is protected by qualified immunity.

WHEREFORE, Defendant UC155 requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
October 24, 2016

ZACHARY W. CARTER
Corporation Counsel
of the City of New York
Attorney for Defendant UC155
100 Church Street, Room 3-212
New York, New York 10007
(212) 356-2356

/s/

By: ______________________
Suzanna Publicker Mettham
Senior Counsel
Special Federal Litigation Division

To: Haran Tae, Esq. (by ECF)
Law Offices of Joel B. Rudin
Attorney for Plaintiff
600 Fifth Avenue, 10th Floor
New York, New York 10020

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-against-

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ANSWER TO COMPLAINT ON BEHALF OF DEFENDANT UC155

ZACHARY W. CARTER
Corporation Counsel of the City of New York
Attorney for Defendant
100 Church Street
New York, New York 10007

Of Counsel: Suzanna Publicker Mettham
Tel: (212) 356-2356

Due and timely service is hereby admitted.

New York, N.Y. ...., 2016

... Esq.

Attorney for ....